IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

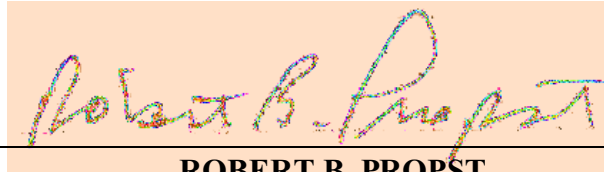|		
GREGORY FLOYD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	5:05-CV-222-RBP-TMP
	)	
STATE OF ALABAMA, et. al.,	)	
	)	
Defendants.	)	

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on April 11, 2005, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed for failing to state a claim upon which relief can be granted under 28 U.S.C. § 1915A(b). On May 3, 2005, the undersigned adopted the magistrate judge's report and recommendation, and entered a Memorandum of Opinion and Order of Dismissal. At that time, the Court was unaware plaintiff had filed objections to the report and recommendation. However, it has since come to the Court's attention that plaintiff did file timely objections. (Doc. 8). Further, plaintiff has filed a Motion requesting this Court alter or amend its judgment because of his timely filed objections. (Doc. 9). Plaintiff's motion (doc. 9) is due to be and is hereby GRANTED. Therefore, the Memorandum of Opinion (doc. 6) and Order of Dismissal (doc. 7) entered May 3, 2005, are hereby VACATED, and this Memorandum of Opinion and a contemporaneous Order of Dismissal shall be entered instead.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is

ACCEPTED. Accordingly, the complaint is due to be dismissed for failing to state a claim upon

which relief can be granted pursuant to 28 U.S.C. § 1915A(b). An appropriate order will be entered.

DATED this 20th day of May, 2005.

ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE